

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Application Number		10/044,119
Filing Date		January 11, 2002
First Named Inventor		Timothy R. Fitch
Group Art Unit		2133
Examiner Name		Fritz Alphonse
Total Number of Pages in This Submission	28	Attorney Docket Number 283-346.02

ENCLOSURES (check all that apply)

<input checked="" type="checkbox"/> Fee Transmittal Form <input checked="" type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment / Reply <input checked="" type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s)	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): One check for \$1590 (RCE and 16 new claims), Communication (4 pgs), PTO/SB/30 RCE (1pg), Express Mail Label, Return Mail Room Postcard.
Remarks The Commissioner is authorized to charge any additional fees to Deposit Account No. 50-0289. Express Mail Label No. EV676907074US		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm and Individual name	Wall Marjama & Bilinski LLP	
	George S. Blasiak	Reg. No. 37,283
Signature		
Date	September 6, 2006	

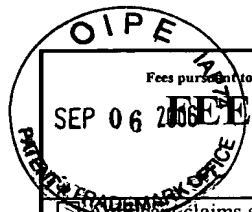
CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as express mail (Express Mail Label No. EV676907074US) in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this date: September 6, 2006

Typed or printed name	Susan L. Pagano	
Signature		Date September 6, 2006

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

Complete if Known**FREE TRANSMITTAL
For FY 2006**

Application Number	10/044,119
Filing Date	January 11, 2002
First Named Inventor	Timothy R. Fitch
Examiner Name	Fritz Alphonse
Art Unit	2133
Attorney Docket No.	283-346.02

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT \$1590.00

Express Mail Label No. EV676907074US

METHOD OF PAYMENT (check all that apply)☒ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____☒ Deposit Account Deposit Account Number: 50-0289 Deposit Account Name: Wall Marjama & Bilinski LLP

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee

☒ Charge any additional fee(s) or underpayments ☒ Credit any overpayments

of fee(s) under 37 CFR 1.16 and 1.17

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**FEE CALCULATION****1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description						Fee (\$)	Small Entity Fee (\$)
Each claim over 20 (including Reissues)						50	25
Each independent claim over 3 (including Reissues)						200	100
Multiple dependent claims						360	180
Total Claims		Extra Claims		Fee (\$)		Fee Paid (\$)	Multiple Dependent Claims
	- 20 or HP =		x		=		Fee (\$)
							Fee Paid (\$)
HP= highest paid number of total claims paid for, if greater than 20							
Indep. Claims		Extra Claims		Fee (\$)		Fee Paid (\$)	
	- 3 or HP =	0	x		=		
HP = highest number of independent claims paid for, if greater than 3							

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a) (1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
- 100 =	/ 50 =	(round up to a whole number) x	=	

4. OTHER FEES

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): RCE Fee and Extra Claims Fee

1590.00

SUBMITTED BY

Signature		Registration No. 37,283 (Attorney/Agent)	Telephone 315-425-9000
Name (Print/Type)	George S. Blasiak		Date: September 6, 2006



Express Mail Label No. EV676907074US
Docket No. 283_346.02
(PATENT)

I hereby certify that this correspondence is being deposited with the United States Postal Service as express mail addressed to Mail Stop: RCE, Commissioner of Patents, P. O. Box 1450, Alexandria, VA 22313-1450 on September 6, 2006. Express Mail Label No. EV676907074US


Susan L. Pagano

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Timothy R. Fitch et al.

Application No.: 10/044,119

Confirmation No.: 8122

Filed: January 11, 2002

Art Unit: 2133

For: Ease Of Use Ergonomically And
Multifunctional Transaction Terminal

Examiner: Fritz Alphonse

COMMUNICATION TO RECORD SUBSTANCE OF INTERVIEW

Mail Stop: RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

INTRODUCTORY COMMENTS

Remarks/Arguments begin on page 2 of this paper.

REMARKS

A telephone interview between applicants' representative George Blasiak and Examiner Fritz Alphonse was held August 17, 2006.

At the beginning of the interview, applicants' representative made the following statement:

The interview will be focused on a limited number of issues for purposes of reducing the time of the interview, and for purposes of expediting an allowance. The focused nature of the interview will not be taken as an indication that arguments for unpatentability by the Examiner not discussed are conceded to be correct and appropriately made by applicants. Applicants' expressly reserve the right, later in prosecution of the present application or another application, to challenge the propriety of the outstanding office action on grounds not discussed in the interview.

Respecting claim 44, applicants' representative requested the Examiner to explain the Examiner's position that the primary reference U. S. Patent No. 5,297,202 to Kapp et al. ("Kapp") a "circumferential lip" as is recited in claim 44.

In response to this question, the Examiner responded that a circumferential lip of Kapp is satisfied by the combination of elements 34 and 60 of Kapp. Applicants' representative then pointed out that a circumferential lip of feature of applicants' invention can readily be distinguished from the alleged lip of Kapp in that the lip of applicants extends in a direction other than the directions of the alleged lip of Kapp. Applicants' representative requested the Examiner to comment on whether amending claim 44 to recite directional specifics of the recited lip would render claim 44 allowable.

In response to the request for comment on whether adding directional specifics to the lip feature of claim 44 would rendered claim 44 allowable, the Examiner initially stated that such an amendment would require further study of Kapp and also mentioned the possibility of a design choice rejection. However, applicants' representative argued certain advantages of applicants lip related feature. Specifically, applicants' representative commented that the lip related features aid the graspability of the transaction terminal resulting in improved signature registration. Applicants' representative also pointed out the expected difficulty in grasping the Kapp device (applicants' representative pointed to the awkward left hand positioning in Fig. 1 of

Kapp). After such arguments were presented the Examiner stated that he would consider allowing claim 44 if amended to recite more particular lip related features.

Regarding claim 64, the applicants' representative requested the Examiner to explain where Kapp teaches an enlarged head portion feature as recited in claim 64. In response to this question the Examiner mentioned the possibility of a design choice rejection. Also, in regard to the enlarged head portion feature, the Examiner pointed to U. S. Patent No. 6,065,679 to Levie et al. ("Levie"). In response to the recitation of Levie, the applicants' representative pointed out, among other differences, that Levie is not a signature registration device as recited in the claims and requested the Examiner to explain where in the June 6, 2006 office action the Examiner has provided a reason as to why Kapp and Levie were combinable. The Examiner could not point to a section of the June 6, 2006 office action where a reason for motivation to combine Kapp and Levie is explained. The Examiner then made reference to statements made in Levie, but ultimately stated that Levie was being cited on the record as providing teaching relating to smart card readers.

At several times during the interview the Examiner stated that there was the possibility of a design choice rejection as to applicants housing related claims. In response to such statements, the applicants' representative pointed out that the Examiner cannot rely simply on design choice rejections in the absence of documentary evidence supporting the design choice rejections. Specifically, applicants' representative made reference to the following provisions outlined in the Manual of Patent Examining Procedure:

When a rejection in an application is based on facts within the personal knowledge of an employee of the Office, the data shall be as specific as possible, and the reference must be supported, when called for by the applicant, by the affidavit of such employee, and such affidavit shall be subject to contradiction or explanation by the affidavits of the applicant and other persons. *37 C.F.R. §1.104*. Also, it is not appropriate for an Examiner to take official notice of facts without citing prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well known. *In re Ahlbert*, 424 F2d 1088, at 1091 (CCPA 1970) cited in *MPEP §2144.03*.

Regarding claim 70, applicants' representative challenged the Examiner's reliance on U. S. Patent No. 6,779,196 to Igbinadolor ("Igbinadolor") as providing a

detachable holder feature in the specific combination as recited in claim 70. Specifically, the applicants' representative requested the Examiner to comment on whether Igbinadolor taught a stylus in the environment of a point of sale transaction terminal as recited in claim 70. The Examiner admitted that Igbinadolor did not teach use of stylus in the environment of the point of sale transaction terminal as recited in claim. The applicants representative also requested that Examiner to comment on whether a plausible interpretation of the relied upon passage of Igbinadolor in that Igbinadolor describes a detachable stylus detachable from a holder rather than a detachable holder detachable from a housing. The Examiner conceded that such an interpretation of the relied upon section of Igbinadolor was plausible.

Regarding claims 78, 89, and 95, the applicants' representative pointed out that the claims recited certain lip related features not taught or suggested in Kapp. After discussions regarding the teachings of Kapp and the possibility of a design choice rejection, the Examiner at the end of the interview indicated that he appreciated the grasping aiding advantages of applicants claimed advantage and that the Examiner would consider allowing claims 44, 64, 78, 89, and 95 if applicants lip (claims 44, 78, 89, 95) or head (claim 64) related features were amended to include directional elements clarifying over the alleged downward and upward extending lip of Kapp.

Dated: September 6, 2006

Respectfully submitted,

By 

George S. Blasiak
Registration No.: 37,283
WALL MARJAMA & BILINSKI LLP
101 South Salina Street
Suite 400
Syracuse, New York 13202
(315) 425-9000
Customer No. 20874